

# PRIVACY OF CONSUMERS' FINANCIAL INFORMATION PART 6 OPT OUT NOTICES

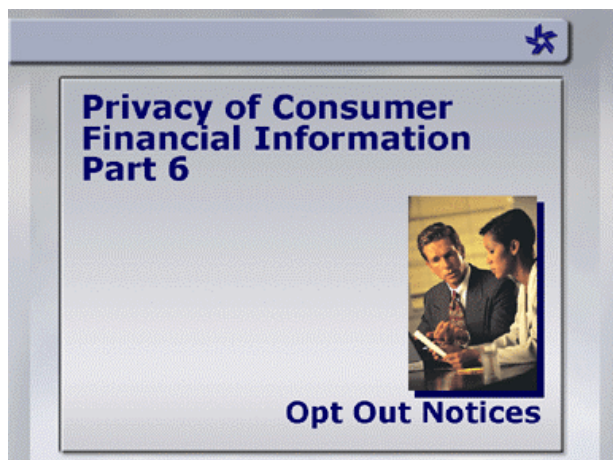
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## Slides

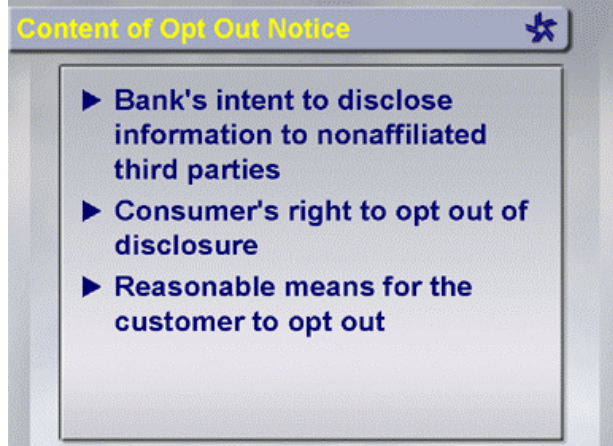


## Narration

While privacy notices contain an announcement of how a bank plans to share its consumers' nonpublic personal information, opt out notices inform consumers' how to prevent certain information sharing from taking place.



The privacy regulation requires banks that share nonpublic personal information outside of the exceptions to provide an opt out notice.



Specifically, an opt out notice must tell the consumer that:

- The bank discloses (or reserves the right to disclose) information to nonaffiliated third parties; and that
- The consumer has a right to opt out of that disclosure.

The opt out notice must also provide the consumer with a reasonable means by which he or she can exercise the opt out right.

**Reasonable Means****Acceptable opt out methods:**

- ▶ Forms
- ▶ Toll-free numbers
- ▶ E-mail addresses



Among what the rule defines as a reasonable means are:

- Forms (with check boxes or blanks) the customer can fill out and return
- Toll-free telephone numbers to call, and
- E-mails to answer (if the customer has agreed to accept disclosures electronically.)

**Reasonable Means****Acceptable opt out methods:**

- ▶ Forms
- ▶ Toll-free numbers
- ▶ E-mail addresses

**Unacceptable opt out methods:**

- ▶ Separate letters
- ▶ Cross-referenced forms

The regulation also lists some methods that are considered unreasonable.

Those include methods such as requiring a consumer to write a separate letter and anything that requires cross referencing to forms sent in a previous or forthcoming notice, not included with the subsequent opt out notice.

**Evaluating Opt Out Processes**

- ▶ Adopt acceptable method
- ▶ Reasonable opportunity to opt out
- ▶ Follow through as stated



In your exams, you'll be evaluating the process a bank uses to send and process opt out notices. That is:

- Is the process the bank says it's using to send notices acceptable under the regulation;
- Does the bank initially provide a reasonable opportunity to opt out? (The regulation provides examples, such as thirty days for notices provided by mail.); and
- Is the bank actually following through in sending and processing opt out notices in the manner it says it is?

### Evaluating Opt Out Processes

- ▶ Adopt acceptable method
- ▶ Reasonable opportunity to opt out
- ▶ Follow through as stated
- ▶ **Complying with opt out instructions**

Finally, you'll be looking at whether or not a bank is complying with opt out instructions it receives from customers as soon as is reasonably practical.

### Evaluating Opt Out Processes

- ▶ **Complying with opt out instructions**



Determining what is reasonably practical may require a good bit of judgment on your part because the rule did not set a specific time limit or provide examples. Consequently, you'll likely encounter situations in which the bank seems to be taking a very long time to comply with opt out requests, and you must decide if that amount of time is reasonable given the particular circumstances surrounding its process.

### General Opt Out Issues

- ▶ **Customer's continuing rights**
- ▶ **Terms of effectiveness**



There are some general issues you'll need to keep in mind during your examination of a bank's opt out notification processes.

These include the fact that customers have a continuing right to opt out. That is, customers can decide to activate their opt out option at any time, even if they did not respond to a previous notice.



**General Opt Out Issues**

- ▶ Customer's continuing rights
- ▶ Terms of effectiveness
  - ▶ Effective until revoked
  - ▶ Written or electronic directions to revoke
  - ▶ No carry over from one relationship to the next

Once activated, a customer's decision to opt out remains in effect until he or she revokes the opt out direction.

The bank must receive customer directions to revoke a previously submitted opt out notice in either written or electronic form. Verbal instructions are not acceptable.

However, an opt out direction does not carry over if a customer relationship is terminated and a new customer relationship is initiated.

**General Opt Out Issues**

- ▶ Customer's continuing rights
- ▶ Terms of effectiveness
- ▶ Joint Accounts

Another important issue is that of opt out notification for joint accounts. According to the regulation, a bank may choose to notify either one of the account holders or choose to notify all of the account holders.

**Joint Accounts**

- If bank sends a single notice:**
- ▶ Explain handling of opt out from any consumer
  - ▶ Allow any account holder to exercise opt out right
  - ▶ Have system to honor requests from other account holders

However, if a bank elects to send a single notice to one joint account holder, it must explain how it would treat an opt out direction by a joint consumer, and it must allow any of the consumers to exercise the right to opt out.

The bank must also have a system that will honor an opt out request submitted by an individual joint account holder who did not receive an opt out notice.

**Joint Accounts**

**If bank sends a notice to each account holder:**

- ▶ Honor opt out from any account holder
- ▶ Establish no system that requires requests from all account holders

If the bank elects to send a notice to all of the parties on an account, it must accept an opt out direction from any one of the consumers. The bank cannot establish a system that requires all of the parties to opt out before making the direction effective.

**Joint Accounts and NCUA**

**Financial product or service, other than a loan**

- ▶ Credit union may provide only one:
  - ▶ Initial privacy notice
  - ▶ Opt out notice

**Loans**

- ▶ Must provide separate notices to individuals

If two or more consumers jointly obtain a financial product or service (other than a loan) from the credit union, the credit union may provide only one initial privacy notice and only one opt out notice to those consumers jointly. In the case of a loan, a credit union must provide separate notices to individuals, other than the primary borrower, if the credit union intends to share nonpublic personal information about them.

**Privacy-Related Presentations**

- ▶ Part 4 Privacy Notices
- ▶ Part 5 Privacy Notice Content
- ▶ Part 6 Opt Out Notices
- ▶ Part 7 Notice Delivery

To gain a comprehensive picture of the privacy notice requirements, there's one more issue we need to cover. The next presentation discusses regulation requirements for delivery.